National Association of Broadcasters

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May 31, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: *Review of the Commission's Regulations Governing Television Broadcasting*, MM Docket No. 91-221

Dear Mr. Caton:

We are submitting for inclusion in the above-referenced docket copies of a letter sent today by NAB to Chairman Hundt. Copeis of the letter were also sent to Commissioner Quello, Commissioner Barrett, Commissioner Chong, Commissioner Ness, Roy Stewart, William Kennard, Dr. Robert Pepper, and Dr. Michael Katz. The letter supplements NAB's filings in this proceeding and urges the Commission to move promptly to increase the permitted levels of television station ownership.

Please address any questions concerning this matter to the undersigned.

Respectfully submitted,

Jack N. Goodman

Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *Television Ownership Rules*, MM Docket No. 91-221

Dear Mr. Chairman:

I am writing to ask that the Commission rapidly move to provide new incentives for investment in broadcast television stations. Specifically, we ask that the Commission immediately amend the regulations limiting the ownership of television stations within one market, and that it make other needed changes in the television ownership rules as soon as possible.

The Commission's review of its television rules began in 1991 following a report by the Office of Plans and Policy that predicted a gloomy future for over-the-air television broadcasting if the regulatory environment in which stations operate were not changed. F. Setzer & J. Levy, *Broadcast Television in a Multichannel Marketplace*, FCC Office of Plans and Policy Working Paper No. 26, 6 FCC Rcd. 3996 (1991). The Commission responded with a notice of inquiry asking for comments on a broad range of possible changes in the rules governing television, and then in 1992 with a notice of proposed rulemaking. Although almost three years have passed since the Commission's staff recognized the need for regulatory changes, the rules governing television ownership remain unchanged.

Some of the issues raised by the Office of Plans and Policy were addressed in the 1992 Cable Act, but cable reregulation did not address the impact of the FCC's ownership rules on the role of broadcasters in the developing video marketplace. Mr. Chairman, as you have taken the lead in pointing out, we are rapidly moving into a new era in communications — an era of virtually unlimited selection for consumers — in which multichannel providers will be dominant. Television broadcasters, however, remain single channel providers. At the same time, competing video providers are free to grow, to add new program services and new distribution outlets, while broadcast growth is tightly restricted by the Commission's rules.

If the video marketplace still resembled the markets of 1960 or 1970, it might be argued that these rules are necessary to ensure diversity. That argument, however, can no longer stand. The number of sources of video programming has and will continue to multiply, and there is no danger if the rules are changed that the public will be deprived of diverse programming or that larger broadcasters could pose any threat to the development of diverse programming. Indeed, if anything, the opposite is true. The continuing vertical integration of the cable and programming markets, and the prospect that this pattern will be repeated as telephone companies begin to provide video services, raise the specter that a relatively smaller broadcast industry will be unable to compete for the most desirable programming.

The Commission's rules effectively prevent broadcasters from meeting the competitive challenges posed by these non-broadcast video technologies. The growth of television broadcast groups is limited nationally, both in terms of the number of stations and in restrictions on potential audience reach. In individual markets, television stations cannot obtain the efficiencies which flow from operating more than one station so that the expenses of news operations, sales staffs, etc. can be shared. The ownership rules also force national broadcast programmers to turn to other distribution media if they wish to develop new program services.

Changes in the Commission's ownership rules will both make over-the-air broadcasting more competitive and provide opportunities for broadcast companies to grow within broadcasting. Further, stronger local broadcasters will be able to provide more local news and other public services.

The record in the radio industry is instructive. Where radio investments languished for many years, the Commission's adoption of relaxed ownership rules several years ago brought about a substantial increase in radio industry investment.

The need for change in the Commission's rules, therefore, is pressing. Several of the proposals in the 1992 notice of proposed rulemaking attracted little controversy and are ripe for action. Specifically, the Commission should immediately eliminate the restriction on owning stations whose Grade B signals overlap, limiting the duopoly rule to Grade A overlap situations. That alone would allow broadcasters to develop new regional services.

Further, NAB believes that the Commission should proceed to review and modify the national ownership rules to permit greater levels of station ownership by broadcast groups. The Commission should also liberalize the duopoly and one-to-a-market rules to allow greater flexibility in station ownership.

Whether or not the Commission ultimately adopts any particular change to its ownership rules, the important thing is that some changes in the television rules occur quickly. If over-the-air television service is to remain vibrant, the Commission must ensure that regulations suited to another era do not hamper broadcasters' ability to compete.

Respectfully submitted,

Eddie Fritts

cc: The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Rachelle Chong
The Honorable Susan Ness
Roy J. Stewart, Esquire
William E. Kennard, Esquire
Dr. Robert M. Pepper
Dr. Michael Katz